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Judge Rejects CIA Bar On Kennedy Documents

By George Lardner Jr.
Washington Post Staff Writer

A federal court judge has rejected an extraordinary effort by the CIA to keep secret thousands of documents concerning the House Assassinations Committee's investigation of the murder of President Kennedy.

Most of the records were CIA documents about the 1963 assassination that were compiled long before the House committee was created. But the CIA had argued that they were transformed into "congressional records" once the committee looked at them and that they were, as a result, beyond the reach of the Freedom of Information Act.

U. S. District Court Judge Thomas A. Flannery turned down the contention last month in a 21-page ruling that emphatically dismissed what he called "the highly attenuated" claim.

Such records, the judge said, "cannot, under any reasoning, become congressional through the mere fact of congressional review." In fact, he said, "these documents never left the possession of the agency, but were reviewed by the committee at CIA headquarters." Beyond that, Flannery observed, a large group of the records, although requested by the Assassinations Committee, was never reviewed by the committee staff.

The decision was handed down in a lawsuit brought by Mark Allen, a Kennedy assassination researcher, who won a similar victory against the FBI last fall from U.S. District Court Judge June Green. Flannery's ruling applies to more than 200,000 pages of CIA records, although the agency has indicated it will continue to keep many of them secret under the FOIA's "national security" exemption.

The FBI has started processing more than 300,000 pages of Kennedy assassination records that it

provided the House committee during the course of its 2½-year investigation. The bureau chose not to appeal Green's decision, but the CIA is still reviewing Flannery's order.

The attempt to keep the documents automatically locked up as congressional records for 50 years was devised in 1979 by Rep. Louis Stokes (D-Ohio), chairman of the defunct Assassinations Committee, and the committee's former chief counsel, G. Robert Blakey. They asked the CIA, the Justice Department and other executive branch agencies not to release any of the materials churned up by the House investigation "without the written concurrence of the House of Representatives." The CIA embraced the idea.

Flannery held that any letters, reports or other records that the committee generated were entitled to continued secrecy as congressional documents, but that was all. He said executive branch records "created in response to congressional requests" as well as pre-existing documents were still subject to FOIA.

When it released its final report in 1979, the House committee said it was "committed to public disclosure of all the facts" bearing on its investigations. But Stokes and Blakey, it was later discovered, had made arrangements to lock up all the backup records that the committee did not publish.

Critics complained that the policy made it impossible to assess the committee's performance. Stokes and Blakey took the position that they had released all the public needed to know. Allen denounced that as "preposterous" and filed suit.

Lawyers for the clerk of the House argued in a friend-of-the-court brief for continued secrecy, but the House was not a defendant in the case.